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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,013	11/21/2001	James E. Johanson	8945-25 (149194)	2419

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IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
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EXAMINER

LE, TAN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/990,013	JOHANSON ET AL.	
	Examiner	Art Unit	
	Tan Le	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the seventh office action for serial number 09/990,013. This action is in response to Applicant's amendment filed 12/05/05, which has now been entered. This application contains claims numbered 25-44. Claims 1-24 were canceled.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/05/05 has been entered.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 25-44 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,566,624 to Brown et al.

As to claim 25, Brown et al. teaches a base comprising: a frame (20) having one or more side edges, each side edge adapted to extend along a side of an article; one or more sockets (24, 26, 28, 30) having internal sidewall defining open ended wells in the frame that form receptacles capable of receiving feet of the article; a plurality of flexible ribs (41) extending along an internal sidewall of the sockets and projecting inwardly into

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wells of the socket; the ribs adapted to deform in response to the engagement with a foot of the article upon insertion into the socket, wherein the one or more sockets define open ended wells (42) in the frame for receipt and engagement of the feet of the article. Note that the ribs are inherently flexible since virtually anything will be bent or flexed if enough pressure is applied to it. See the term "flexible" in *Fredman v. Harris-Hub Co., Inc.* 163 USPQ 397 (DC 1969).

As to claim 26, wherein the frame has four sides, each side can be adapted to extend along one the four sides of the article with relatively outer peripheral edge portions of the base positioned adjacent bottom surfaces of the-article.

As to claim 27, wherein an outer peripheral edge portion of each of the sides of the frame is recessed (71) relative to inner portions of the base along the corresponding side, creating a gap between the base and adjacent portions of the article along each side thereof.

As to claim 28, wherein the ribs (41) in the one or more sockets are vertically positioned and project radially inward from sidewalls

Regarding claim 29, wherein the ribs are substantially beveled at their upper edges adjacent an open end of the wells.

Regarding claim 30, wherein the ribs are positioned axially within the wells of the socket.

Regarding claim 31, wherein a bottom edges of the ribs are separated from bottom walls of the sockets (38).

Regarding claim 32, wherein a relatively outer peripheral edge portion of at least one side of the frame is recessed (71) relative to inner portions of the frame along the at least one side, the recess of an outer edge along the at least one side creating a gap between the base and adjacent portions of the article.

Regarding claims 33-44, Brown et al also teaches all the subject matter of these claims which recited limitations similar to those recited in claims 25-32. Note that new claims 42-44 further recites the limitations a frame surrounding a central opening. This feature also reads on Brown (see central opening 30)

Response to Arguments

Applicant's arguments filed 12/05/05 have been fully considered but they are not persuasive.

Applicant's arguments with respect Brown et al.'s 624 as presented on pages 7-8 have been considered but they are not deemed persuasive. The examiner respectfully submits that although the claims have been further amended to be more specifically recited the appliance/article, however, the claims still read on or fully met by Brown et al.

Particularly, Applicant's argument that "the specific relationship between the base and the appliance is defined by the preamble of each of the claims. This structure of the appliance defines the function of the elements of the base. The flexible ribs deform in response to engagement with the foot of the appliance and the side edges of the frame extends along the panel of the appliance, with the central opening defined by the

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frame side elements. The engagement of the ribs with the foot of the appliance deflects and resiliently deforms the ribs to retain the base secured to the appliance". As explained in the previous office action, the examiner considers the reinforcing ribs (41) of Brown is flexible since the whole pallet is processed/molded from a thermal plastic material, with such material when a heavy article or an appliance feet is slidably moved in, the appliance feet will deflect the ribs or bend the ribs thus the functional limitation/or intended use as recited in the claims is read on or fully met by Brown et. Note that although Applicant has further defined the feet of the appliance/article in the preamble of the claims, or elsewhere in the claims; however, the feet of appliance or article in the instant case is not a positive limitation. Therefore, the feet of the appliance or article in this case is considered not part of the claims.

Conclusion

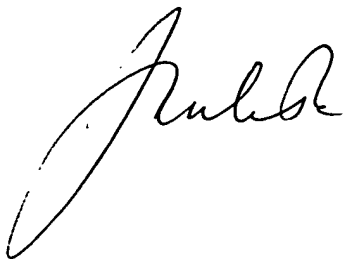
This action is made NON-FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tan Le', with a large, sweeping loop at the end.

Tan Le
Patent examiner
February 17, 2006